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SUBJECT: IMPRISONED HUMAN RIGHTS LAWYERS GET ONE YEAR SENTENCE REDUCTIONS ON APPEAL; SHOULD NOW BE ELIGIBLE FOR AMNESTY in 2008

REFS: A) HANOI 752 B) HANOI 839 C) HANOI 872

¶1. (SBU) After a six-hour appeal trial in Hanoi, the GVN Supreme People's Court (SPC) reduced the prison sentences of jailed human rights lawyers Nguyen Van Dai and Le Thi Cong Nhan each by one year, following the initial recommendation by the Prosecutor. The probation term remained the same. Instead of five years in prison and four years probation, lawyer Dai will now receive four years in prison and four years probation; while Le Thi Cong Nhan will receive three years in prison, instead of four, and three years probation. Each has been in prison since February 2007. With time served, they should each become eligible for government amnesty at different times in 2008, with one-third of the sentence served.

¶2. (SBU) Poloff attended the one-day appeals trial, which was also attended by other diplomats and international and domestic journalists. While the prosecution's case once again centered around the authoring, downloading and distributing of documents and the defendants' ties with Bloc 8406 and political activists Nguyen Van Ly and Hoang Minh Chinh, the trial was unusual in the favorable conditions the Court granted the joint defense for the two defendants. An impressive five-person defense team was permitted multiple rounds of interrogation and cross-examination and wide latitude in speaking without interruption. One after the other, each defense attorney attacked the prosecution's case and cited a litany of State abuses of power and of the legal profession.

¶3. (SBU) The defense's arguments centered largely on the overall weakness of the Prosecution's interpretation of Article 88 of the GVN criminal code, "distributing propaganda to oppose the state." They asked what "opposing the State" means and for the definition of "propaganda," noting that virtually anybody having Internet access or engaging in a discussion could be prosecuted under Article 88. The defense team further noted that Article 88 conflicts with Article 69 of the GVN Constitution, which protects freedom of expression. They argued that opposing the Party and the one-party rule should not mean one is opposing the State, and that the GVN Constitution allows for the existence of other political parties. When the defense attorneys argued that Vietnam is clearly not complying with international human rights instruments to which it is signatory, the SPC justices cut the discussion short.

¶4. (SBU) In final statements before the sentencing, it was suggested to Dai that he ask for the Court's mercy. He told the court, "I was not born opposing the State, but I grew up observing problems in Vietnam and then sought solutions... I have no political ambitions, and if released, I will try and be more objective in describing the situation in Vietnam." Nhan, less repentant but less fiery and defiant than at the first trial, told the court, "I affirm today that not only am I a member of Nguyen Van Ly's Vietnam Progression Party but I am a founding member." She added, "Since I was a little girl, I've been asking myself why Vietnam had only one political party...I will continue my mission to speak out for freedom of

*expression whether I am in prison or out, because that is my responsibility as a lawyer."*

MICHALAK